



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 21

In re Application of
Mary Ann N. Caneba
Application No. 09/985,012
Filed: May 14, 2001
For: Customizing Pack
Carrier On Wheels

DECISION ON PETITION

This is a decision on the petition filed by on May 7, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the final Office action dated April 23, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

Petitioner alleges that the application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed on November 7, 2003 in the form of a 37 CFR 1.114 Request for Continued Examination (RCE), as supplemented by an additional filing on December 2, 2003. Specifically, petitioner alleges that the RCE filed on November 7, 2003 was not accompanied by the correct fee for the RCE, but on December 2, 2003, petitioner remitted an amount of money sufficient to extend the period for response to the final Office action by one month, and to make up the correct RCE filing fee.

Petitioner has supported the above allegations by furnishing a copy of the RCE filed on November 7, 2003. The RCE has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated November 7, 2003. Petitioner has also supplied a copy of the filing on December 2, 2003, together with evidence in the form of a post card receipt showing that the extension of time and additional money due for the RCE filing fee were in fact filed on December 2, 2003.

Based upon this evidence, it is clear that the application is not abandoned. In addition, Office financial records show that the RCE filing fee was in fact applied, as were the extension of time fee and the additional money necessary for the filing of the RCE. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the RCE filed on December 2, 2003 and will thereafter be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
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